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UNCLAS SECTION 01 OF 03 BOGOTA 002001

SIPDIS

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STATE PLEASE PASS TO USTR: KENNETH SHAGRIN, ARROW AUGEROT  
FCC INTERNATIONAL BUREAU FOR ETALAGA

E.O. 12958: N/A

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SUBJECT: COLOMBIA: SECTION 1377 TELECOM TRADE AGREEMENTS  
REVIEW

REF: 05 STATE 26652

1. Per reftel, Econoff met with appropriate Colombian government authorities, including the GOC's Telecommunications Regulatory Commission (CRT), and provides the following responses to complaints about excessive mobile to mobile termination rates, excessive fixed to mobile termination rates, and excessive pricing and provisioning delays for access to leased lines:

2. Q: Are the rates for mobile termination services regulated?

Answer: The rates for mobile termination services are regulated in Colombia by Resolution 463 of December 2001. This resolution established maximum rates that mobile companies can charge for termination services during 2001-2005. In 2005, CRT plans to issue a new mobile termination services resolution with new maximum rates for a subsequent five-year period.

3. Q: If so, how are the rates determined? What cost methodology is used to determine rates?

Answer: Resolution 463 determines the rates on a network capacity basis or a charge-per-minute basis. The capacity-based rate for cellular operators, including Personal Communication Systems (PCS), applies only to calls from international long-distance carriers or cellular operators. A TELRIC (Total Element Long Run Incremental Cost) methodology determines the maximum rates. This methodology calculates rates by adding long-term incremental costs to a fraction of the common costs. The charge-per-minute methodology is applied to domestic fixed line operators. According to CRT, the new mobile termination services resolution will provide domestic fixed line operators the opportunity to use similar cost methodologies currently offered to cellular and international long distance operators.

4. Q: Is the process to determine rates transparent? Are the results made public?

Answer: Yes, the process to determine rates is transparent and the results are made public. The CRT organized three public fora and published technical studies two years prior to issuing Resolution 463, in order to allow public debate and discussion of the regulations.

5. Q: Are the rates tending upward? If so, what explains this trend?

Answer: Yes, rates are tending upward. Under Resolution 463, incremental maximum rates were established yearly, between 2001-2005, because CRT claimed that Colombian mobile-to-mobile termination rates were too low for international standards. In 2005, the CRT plans to issue a new mobile termination services resolution with new maximum rates for a subsequent five-year period (2006-2010). The same TELRIC cost methodology as well as the charge-per-minute rate will be used.

6. Q: Does the mobile termination rate differ based on origin of call? (i.e. domestic vs international)?

Answer: Yes. A CRT study claims that for international calls terminating on a mobile phone, the rates are competitive (approximately US 4 cents per minute) and lower than other Latin American countries (US 7 to 27 cents per minute) and European countries (US 12 to 23 cents per minute). However, the CRT determined that such rates should increase over a 5-year period to meet average international rates. For domestic mobile-to-mobile calls, the CRT asserts that the rates are one of the lowest in Latin America (US 2 cents per minute), and competition between mobile operators is intense.

CRT asserts that there is room for rates to decrease even more in the domestic mobile-to-mobile market. However, for domestic fixed-to-mobile calls, the CRT claims that the termination rates are too high (approximately US 38 cents per minute). According to the CRT, mobile operators charge fixed operators a high termination fee to discourage the use of

fixed lines. Resolution 463 does not limit the termination fees a mobile operator can charge a domestic fixed operator.

17. Q: Is the regulator/ministry considering taking any action, including on an interim basis, with respect to mobile termination rates?

Answer: Although CRT plans to issue a new resolution on mobile termination rates in 2005, CRT has not published a draft of the new resolution. CRT mentioned that the new resolution should establish maximum termination rates for fixed-to-mobile calls or require mobile operators to charge outside users rates similar to the rates they charge their own network subscribers.

18. Q: Is there any ratio between rates charged for termination on fixed networks and rates charged for termination on mobile networks that reflects the disparate costs of the different networks? What would be a reasonable ratio?

Answer: CRT does not have a standard ratio between rates charged for termination on fixed networks and rates charged for termination on mobile networks that reflects the disparate costs of the different networks. Termination rates on fixed networks are a lot less than on mobile networks. Currently, termination rates on mobile networks vary depending on what originating source requests termination and if the originating source has an affiliation with the mobile network or is a direct competitor with the mobile network. Although there is a maximum termination rate for mobile networks, CRT does not have a current standard ratio to measure the disparate costs between fixed and mobile networks.

19. Q: Are the wholesale (carrier) rates being charged for leased lines used by carriers (e.g. two megabit link between a carrier's network and its customers) regulated?

Answer: Yes, regulations oblige carriers to provide their customers with two options: a charge-per-minute rate and a capacity-based rate. Colombia introduced the capacity-based interconnection charge in an effort to promote greater competition among telecommunications providers.

10. Q: If so, how are the rates set? Does the regulator benchmark them against other comparable markets?

Answer: CRT set interconnection rates for each year between 2001-2005, decreasing the rate by approximately 10 percent each year. Under the option of capacity-based interconnection charges, the operator that interconnects with a carrier pays a flat monthly charge. The price is calculated based on the premise that the operator providing interconnection for the service shall recover its cost of operation, maintenance of the network plus a reasonable profit, independent of the volume of traffic. The operator that opts for the capacity-based methodology assumes the risk associated with traffic fluctuations. CRT also permits a charge-per-minute rate. In 2003, CRT performed a benchmarking of Colombian telecommunication rates against rates charged in other comparable markets, mainly in Latin America and a few European countries. According to the CRT official, the findings of this benchmark showed that carrier rates charged for leased lines are competitive.

11. Q: Is the process for determining rates transparent? Can interested parties challenge cost-data submitted by the incumbent operator?

Answer: CRT asserts that the process for determining rates is transparent and those results are usually published. Interested parties can challenge cost-data submitted by the incumbent operator and provide that information to the CRT for mediation purposes.

12. Q: Is the regulator aware of complaints about the time it takes to receive a line?

Answer: CRT is not aware of complaints about excessive time for receiving a line.

13. Q: What are the factors that affect delivery?

Answer: Delivery depends entirely on the operator's capacity.

14. Q: We have heard allegations that the incumbent is providing leased lines faster to their end-user customers than they are providing them to requesting competitors. Are there reporting requirements to monitor this? If not, how is this monitored? If so, are the reports public?

Answer: Although CRT is aware of some allegations that the incumbent is providing leased lines faster to their end-user customers than they are providing them to requesting competitors, CRT states that they have no reporting requirements to monitor this.

However, CRT has the ability to mediate and resolve conflicts between telecommunications providers, incumbents and competitors. CRT estimates that the time to resolve a conflict ranges from four months to one year, depending on the complexity of the conflict. The CRT has mediated approximately 54 cases between 2002 and 2004.

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